

UNITED STATES CIVIL SERVICE COMMISSION  
Office of the Executive Director  
Interagency Advisory Group  
1900 E Street, N.W.  
Washington, D.C. 20415

IAG Committee on Labor-Management Relations

March 23, 1978

Charlie Feigenbaum, Acting Deputy Director of OLMR opened the meeting with the announcement that the CSC was recruiting to fill the position of Deputy Director, OLMR (GS-233-16). See Notice of Executive Vacancy, No. 78-2, dated March 20, 1978, or contact Marie Glover, (202) 254-6956 for additional information.

FPMIS

Ron Leahy (OLMR) clarified the objectives and development plans for the Federal Personnel Management Information System. He said the objectives were to (1) design procedures for effective and more efficient processing and reporting of Federal civilian personnel actions, and (2) supply previously unavailable information on the Federal civilian workforce.

Three agencies (CSC, Air Force and HEW) have been selected to test the system. A live operational test of the system in these agencies will be conducted (probably during 1980 and 1981) and evaluated before the plan is made operational on a governmentwide basis.

Agency personnel are now working with CSC staff on four task teams. The efforts of these task teams are being coordinated by the Project Director, Anthony Green, Bureau Personnel Management Information Systems, CSC. When completed, the report of the project staff will be submitted to the Users Group (CSC bureau directors and personnel directors from twelve agencies) for approval. Once approved the plan will be submitted to the Executive Director, CSC. From there the plan will go to the IAG for consultation with all agencies, and for completion of OMB Circular A-40 clearance requirements. Leahy emphasized that the project is still in the embryo state, being worked on at the staff level of the task groups. Questions and concerns expressed about the LMR data proposals now on the drawing board prompted Leahy to suggest a special meeting with FPMIS project staff be devoted exclusively to this topic. That meeting will be held prior to the next regular IAG meeting, and will provide more information on the subject and offer an opportunity to more fully air the LMR concerns with the project.

### Digest of Labor Arbitration Awards

Leahy reported on a new issuance from the LAIRS unit of OLMR. The issuance is a digest, covering binding and advisory arbitration in the Federal service, and will be distributed on a limited basis to Agencies within the next two weeks. The digest is a companion to the Index of Federal Labor Relations Cases issued last January.

Each case in the digest is represented as follows:

- Headnotes that highlight the issues
- LAIRS number
- Question posed to the arbitrator
- Essence of the arbitrator's decision and remedy
- Arbitrator's name
- Date of the decision
- Parties involved
- The number of pages in the arbitrator's decision

Agencies receiving the Digest are requested to react to OLMR with ideas on how it may best be used, and what the extent of regular distribution should be.

### Service to LAIRS Customers

Leahy also reported that OLMR has compiled and summarized some information on LAIRS computer searches of the negotiated agreement file. The data covers FY 78, describes the search request, and the information that was provided. The requestor is not identified. This summary is available upon request from the LAIRS unit.

### Midterm Bargaining

John Ferguson (OLMR) gave a status report on a midterm bargaining position paper being written to satisfy an action item emanating from the 1977 LRO Symposium at Charlottesville. A draft paper went out to selected agencies for comment in February. The replies have generally been favorable as to the subject discussion and guidance. The paper was revised, incorporating many of the suggestions of Agency and CSC LRO's, and is now in a review process in OLMR. Issuance of a final paper is anticipated within the next four weeks.

### Status of Agreement Terms After Expiration

Roger Kaplan (IRS) and Mike Dolan (IRS) discussed a March 17, 1978 landmark decision (Consolidated cases FLRC Nos. 77A-40 and 77A-92) by the FLRC involving IRS and NTEU. The decision was on the appeals that arose from two Assistant Secretary Cases (A/SLMR Nos. 806 and 869) involving the termination of certain terms of the parties negotiated agreement after the agreements expired. In each instance the parties were engaged in re-negotiating the basic agreement and had reached impasse.

In A/SLMR Nos. 806 and 869, the Assistant Secretary had determined that "only those rights and privileges which are based solely on the existence of a written agreement" (e.g. dues withholding) expire with it. The Assistant Secretary said that if an activity desires to change a matter that is covered by an expired agreement, it must fulfill its section 11(a) bargaining obligation. Should bargaining result in an impasse and the union does not invoke the services of the FSIP, then the activity may effect the change, so long as it does not exceed the scope of its proposals during negotiations. However, if the union does invoke the services of the Panel, the existing terms and conditions must be maintained, absent an "overriding exigency," until the Panel's procedures are exhausted.

The Council's review of these cases resulted in some important general principles regarding the obligation to bargain:

1. Existing personnel policies and practices and matters affecting working conditions do not automatically end upon expiration of an agreement (whether or not contained in the agreement) unless:
  - a. the parties agree otherwise, or
  - b. there exists an agency regulation that was issued during the term of the agreement, but was inoperative with respect to bargaining unit employees because it conflicted with the agreement. Upon the expiration of the agreement, such a regulation then applies to bargaining unit employees.
2. Upon the expiration of the agreement, those matters in the agreement that were excepted from the obligation to bargain under Section 11(b), or are outside the Section 11(a) obligation, may be unilaterally changed by management.
3. When an agreement expires in the context of renegotiation for a new, comprehensive agreement, no change may be made without notifying the other party and giving it a reasonable opportunity to appeal to the Panel. If an appeal is made to the Panel within a reasonable time, the status quo (whether or not covered in an agreement) must be maintained to the maximum extent possible until the Panel's processes are completed. The Council defined "maximum extent possible" as meaning "consistent with the necessary functioning of the agency."

The decision will be published in a future Report of the Council. It is OLMR's view that this case does not apply to the midterm bargaining context.

Other negotiability cases discussed were:

- McGuire AFB, N.J., FLRC Nos. 77A-18 and 77A-21, Report No. 142
- DoD Dependent Schools, FLRC No. 76A-142, Report No. 143
- VA Hospital, Salem, Va., FLRC No. 76A-88, Report No. 144
- VA Hospital, Altoona, Pa., FLRC No. 76A-128, Report No. 144

Comptroller General Decision - Overtime Pay for Prevailing Rate Employees Who Negotiate Their Wages.

Jerry Rachelson (Interior) reported on CG Decision No. B-189782 issued February 3, 1978. The statute governing prevailing rate employees, enacted in 1972, contained a savings clause exempting certain wage setting provisions of certain collective bargaining agreements from the operation of that law. In this decision, the CG determined that some of the provisions of existing agreements were illegal when the statute took effect and they therefore were not exempted by the savings clause. The Agency was given a period of time to renegotiate the agreements into compliance with the 1972 law. The Agency was also given permission to waive the erroneous overpayments of overtime pay.